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A Gendered analysis of land reforms in Zimbabwe

Abstract

Between 1980, when Zimbabwe attained political independence, and 2003 the government has implemented two phases of land redistribution programmes, designed to transfer land from large-scale commercial white farmers to black farmers. However, the state has paid scant attention to rural women's access to land. Studies documenting women's exclusion from Phase I land reform have tended to rely on the operation of customary law to explain why women have missed out. I question these liberal accounts and argue that a comprehensive understanding of the way rural women access land, or fail to access land, can only be gained by examining gender and power relations that operate in the villages. Phase II land reform has seen a complex intersection of criteria based on gender and political affiliation used to deny potential beneficiaries access to land, as patronage politics became the dominant means of achieving access to land.

Keywords: rural women; access to land; land reform; customary law; Zimbabwe; gender and power relations; political affiliation

Gender and land reforms in Zimbabwe: a review of literature

The question of land ownership relates essentially to a large number of issues including conceptions of nationhood, property, community, ethnicity, citizenship and gender. At independence, Zimbabwe inherited a racially skewed distribution of land that excluded most black Africans from access to land. It has been observed that agricultural land was divided along racial lines as follows: 6,000 white large-scale commercial farmers controlled about 15,5 million hectares, and 840,000 communal area farmers controlled about 16,4 million hectares (Harts-Broekhuis & Huisman, 2001; Hoogeveen & Kinsey, 2001). Inevitably, the new government embarked on land reforms intended to improve the welfare of the poor and the landless. Land Reform and Resettlement Programme Phase I (LRRP I) ran from 1980 to 1997, and resulted in only very modest transfers. Land Reform and Resettlement Programme Phase II (LRRP II) began in 1998 and has been characterized by a more radical approach to land occupation.

As Gray & Kevane (1999) correctly assessed, the position of women in relation to land tenure in sub-Saharan Africa is that of “owners of crops” but not “owners of land.” Exploring the politics of the land tenure reform process in Tanzania, Manji (1998, p. 645) noted how that the “question of women's unequal rights to land has been almost totally neglected” within the national debate about land reforms. As a result, gender issues did not command sufficient attention from policy-makers in planning about land reform in the country (Izumi, 1999). Although the South African Constitution affirm a commitment to gender equality, in rural areas “women's right of access to land is denied through the practice of customary law” (Rangan & Gilmartin, 2002, p. 633). As Goebel argued, “the contradiction between customary law, practices and attitudes and modern individual rights represents a complex battleground for women and land in Southern Africa, and calls for new feminist conceptualizations of the state as a vehicle for gender justice” (2005, p. 145).

This article takes issue with accounts that rely on customary law, exploring whether or not gender and power relations in patriarchal institutions like the village, a dominant and influential institution in the daily lives of women, have been instrumental in denying women access to land. The article focuses on rural women whose livelihood is depended on land. It also examines the intersection of gender and political affiliation in the LRRP II. The key objectives of the research are: 1). to explore the gender and power relations within the Zimbabwean context that restricts rural women from having access to land. 2) to establish and evaluate government policies and practices regarding women's access to land in the land reform process. 3). to investigate whether or not the new resettlement program improves or erodes women's access to land.

Research done on the government's LRRP I revealed an ostensibly male bias in the resettlement models that distributed land to household heads (Jacobs, 1990). Jacobs' (1990) research on LRRP I revealed that it was premised on the concept of giving land to individual households, which tended to mean to male household heads, thus denying women legal right to land. In 1984, Jacobs (1990) carried out field research on the relation of gender and land access in Zimbabwe's three north eastern provinces of Mashonaland East, Mashonaland Central and Manicaland. The fieldwork included a random selection of unstructured interviews with married settlers and meetings with women's clubs. Although there are several models of land redistribution in LRRP I, Jacobs researched two, that is, Model A and Model B. The Model A involved five ha plots distributed to families or, more specifically, to individual house heads. In Model B, land was held on a co-operative basis. The Zimbabwean government gave more priority to the Model A resettlement program and, according to Jacobs (1990, p. 170), "in granting heads of households twelve acres, the intent is presumably that households/males should at least be able to attain the positions of self-sufficient middle class peasants." According to Jacobs, Model A resettlement had a gender bias against women in

that land permits were held by the household head, assumed to be the husband unless a woman is widowed (Jacobs, 1990; Pankhurst & Jacobs, 1988). In the words of Jacobs (2000, p.3) “an unmarried woman has no claim on land, and a wife's access to land depends upon the marriage continuing, since upon divorce it is she who must leave the resettlement area.”

Despite the relative scarcity of literature on women's access to land since independence, there is a large literature debating their access to land and other property in the pre-colonial and colonial era. This provides a valuable historical context, and belies any assumptions that women have always been subordinate in Zimbabwe.

Women's Access to Property in the Pre-Colonial and Colonial Era

It is generally argued that prior to the impact of colonial capitalism, Shona women had access to a socially defined minimum amount of land from their husbands' holdings (Pankhurst & Jacobs, 1988). As Peters & Peters (1998) observed, the pre-colonial kinship structure of the Shona and Ndebele recognised, albeit perhaps secondarily, women's rights to land for subsistence production and personal income generation. Jacobs (2000, p. 2) concurred with this position, pointing out that “customarily, a wife was entitled to her ‘own’ plot of land (in a system in which land was not privately-owned but was individually-worked) in order to plant food crops, used in most cases to feed family members.” This plot, known as *tseu/isivande*, remained under the control of women. It suffices to say that the plot, often near the homestead, tended to be well managed and normally produced a good harvest even in times of drought. Similarly, the Shona and Ndebele's concept of *mombe yeumai/inkomo yohlanga* (the cattle of motherhood), which women in pre-colonial, colonial and post-colonial societies possessed, is a sign of wealth that remains firmly under female control. Thus, there is a sense in which pre-colonial Shona and Ndebele societies allowed married women access to land and other resources.

A classical example cherished by all Zimbabweans is the story of the most famous Zimbabwean woman to date, Nehanda Nyakasikana, a spirit medium who led and organised the 1896-7 uprising against the white settlers. Spirit mediums are religious-political figures, perhaps the equivalent of the biblical prophets. Settler administrators were surprised at the extent of her influence among both the Shona and Ndebele during the war. As Gaidzwana (1992, p. 107) has pointed out, “they explained it away by saying she was a witch with some kind of power over men of her nation, hence her bizarre behaviour and men’s co-operation with her.” Nehanda’s involvement in the anti-colonial struggle is an indication of the spaces that existed for women in pre-colonial Shona society, contrary to western generalisations that pre-colonial Southern Africa was divided between a dominant class of married men/homestead heads and a subordinate class of dependent women (Kesby, 1999).

From this, one can safely argue that women in pre-colonial Zimbabwe had some rights to a certain portion of land and other resources and more so, actively participated in the political and religious spaces that were a preserve for men in western nations. However, it is not clear what happened to those women who were divorced or widowed, in female-headed households. Oral tradition points out that widows and divorcees remained on their pieces of land.

It can be concluded that while women had some autonomy before the colonial era, women (and men) lost this autonomy during colonisation, which heralded a new era. After colonisation in 1890, the white settlers appropriated land through the creation of Native Reserves in 1898 for the black people (Harts-Broekhuis & Huisman, 2001). The appropriation of land and the setting aside of inadequate and unproductive Native Reserves for African residence and agriculture consequently led to land hunger and reduced productivity. These resulted in a gradual shift of the traditional land tenure patterns in which women were entitled to *tseu/isivande*.

Constructions of Female Spaces and Identities

Historically, white farmers depended on cheap labour from Native Reserves and from colonies to the north, especially Nyasaland (Moyo, Rutherford, & Amanor-Wilks, 2000). However, as Weiner (1991, p. 60) has stated, “only men were allowed to live and work in designated European areas. Women, children and unproductive males were forced to reside in Native Reserves, later coined Tribal Trust Lands.” It must also be pointed out that African men sold their labour power under coercive conditions to European and Rhodesian farms.

Nonetheless, taxes and coercive conditions did force men to enter settler employment and women were left as *de facto* heads of households. The movement of women to the towns was discouraged, and legal restrictions ensured that most remained on the reserves engaged in subsistence agriculture, also taking on those tasks traditionally carried out by men (Gordon, 1996). The movement of African people was controlled through the pass system. The pass, only given to men, effectively defined and created public and private spaces for men and women. The gendered application of passes contributed to the new cultural understanding of the dichotomies: male/female, productive/unproductive, and public/private (Gaidzanwa, 1992). From the 1920s onwards, African mobility was deemed illegitimate without clearance from a District Commissioner. It also became unlawful for women to seek such permission without her guardian’s consent (Kesby, 1999). As Schmidt’s (1990) research has revealed, African chiefs, headmen and other male elders, whose duties and powers were manipulated by the colonial state, became the backbone of the administrative system of indirect rule.

As I have argued earlier, the description of pre-colonial Zimbabwean society as embedded in a patriarchal domestication of women is a hasty generalisation that ignores specific historical contexts. As Gaidzanwa (1992) has argued, domesticity is a received ideology that differentially impacted upon Zimbabwean people. Gender relations of exclusion and the oppression of women were formed and transformed more by historical processes in a

racialised society that fostered the supremacy of race as an organising ideology of social life than by the pre-colonial patriarchy that Kesby (1999) rely on. It can be argued that the most significant contribution to the divide between a dominant class of married men/homestead heads and a subordinate class of dependent women, children and unmarried young men was of colonial creation, imposed on the African population by white settlers coming from Victorian England, where the domestication of women was advanced. Just as settler wives were expected to supervise their households, African women were expected to manage the rural home for the men.

Customary Law in Relation to Land Access

A number of studies have documented the ways in which women are conferred inadequate property rights through customary tenure systems in southern Africa. Scholars have argued that the dualistic nature of Zimbabwe's legal system is a stumbling block towards any gender-sensitive land redistribution exercise (Chitsike, 2000; Jacobs, 1990; Nkiwane, 2000). Whatever formal rights are accorded to women are taken away by customary law (Jacobs, 1990). There is remarkable similarity with the South African land reform as shown by Rangan & Gilmartin (2002, p. 633): "the new South African Constitution, together with later policies and legislation, have a greater commitment to gender rights...but women's right of access to land is denied through the practice of customary law."

Scholarly literature concerned with African customary systems of land tenure commonly portrays African women as occupants of relatively powerless positions, that is, in terms of land control, relative to men. "Unlike men, however, most black Zimbabwean women, especially in rural areas, live under constraints of customary law" (Jacobs, 2000, p. 1). This has been the point of much of the recent literature focused on rural African women; that women are discriminated against because of customary law (Osirim, 2001). As Chitsike (2000, p. 75) argued, "under customary law in Zimbabwe, women do not own land or inherit

land. Land is owned and inherited by males. The woman's role is to farm for their fathers and later for their husbands, and finally for their sons, on land that they do not own."

Similarly, women's groups have argued that whenever customary law has been applied, it has worked against the interests of women. In the case of land rights, customary law is usually applied as traditional leaders administer land allocation. Customary law has, in many instances, been deemed discriminatory towards women in that it curtails their access to and control of resources (Jacobs, 2000). As Mvududu (1999, p. 209) has argued, "the limitations of women to own property in Zimbabwe are largely due to exclusive male ownership of property under the customary law of Zimbabwe, which has historically served to establish and maintain male domination and still does so."

The sparse literature on gender and land reforms legitimates the further contribution that I hope to make in this article. It has been noted that most accounts of the Zimbabwean land crisis emphasized "the questions of race, class, capitalism and post-coloniality" (Goebel, 2005, p. 146), neglecting the importance of gender in the process. Thus, the analysis of gender in LRRP II is especially salient, since so little has been written about it so far. More specifically, I am interested to examine the claims that the operation of customary law has been the main impediment to women accessing land. My specific research questions are as follows:

- i. Is the operation of customary law an adequate explanation of why women have been denied access to land?
- ii. Have gendered power relations in the village denied women access to land?
- iii. How and why is LRRP II gendered, in terms of both government policy and actual outcomes?

The Research Process

This research involved a gendered analysis of various texts and sources, including government documents (and press statements and speeches) on land reforms, statistical material, theoretical texts, reports from women's groups, other published reports, articles and newspaper reports. I will also discuss the role played by the Women and Land Lobby Group,

a gender progressive group, in the land reform and redistribution exercise. The political instability in the area of research has forced the author to rely on views expressed by women and women's groups as portrayed in their policy statements, local newspapers and other forms of media available on the internet. Thus, it has not been possible to conduct my own interviews with them, for example. Similarly, Goebel (2005, p. 156) notes that "there is little fieldwork-based evidence to draw on to tell us about the experience of women since 1998."

Hence, by way of analysing secondary sources that gave women a voice during the land reform debate and redistribution, I hope to capture some of their experiences and perceptions of the whole exercise. As Denscombe (1998, p. 159) has argued, "if documents are central to investigation, they can be treated as sources of data in their own right- in effect an alternative to questionnaires, interviews or observation." As someone born and raised in a Zimbabwean village, I have observed the strength of patriarchal attitudes and practices in our society that precludes women's access to land. I see the article not only as a way of deconstructing and dismantling this misrepresentation, but also as one of constructing and building the base for knowledge production. I am not researching on the topic as a mere academic interest but it emanates from my lived experiences.

The research is located within a postmodernist framework because of its useful concept of deconstructionism. Postmodern feminism is closely linked to deconstruction characterised as a process that is universally and radically critical, anti-essentialist, and fiercely committed to breaking down traditional antinomies such as reason/emotion,

self/other, men/women (Ramazanoglu & Holland, 2002). Derrida, cited by Ramazanoglu & Holland, (2002, 28), regards deconstruction as a “key concept for analysing binary oppositions and questions how particular contexts, ways of thinking, telling truths, reading texts, and so on, have been socially constituted.” Derrida has argued that what is presented as a dichotomy is in fact merely a difference that has been manipulated into a hierarchy. Derrida challenges both the opposition and the hierarchy, drawing attention to how each term contains elements of the other and depends for its meaning on the other.

LRRP II was implemented within several sets of binary oppositions of black/white; Zanu PF/ Movement for Democratic Change; communal farmers/commercial farmers; communal farmers/commercial farm workers; with the second group in each binary ‘othered’ in terms which sought to exclude access to land. Targeting race had the effect of excluding; silencing or marginalising significant divisions between blacks and this empowered the ruling elite to privilege race over other differences. In one sense, black Zimbabweans were perceived as a homogeneous group devoid of differences. Such categorisations repressed inherent inequalities among the black people in terms of land ownership and thus resulted in the intensification of inequalities.

How Women Negotiate and Contest Land Access within Institutions of the State and Tradition

There are numerous factors constraining women’s access to land, from state policies to market forces and legal and traditional structures. The literature on women and land tenure in Zimbabwe has emphasized the point that in many ethnic groups, customary law discriminates against women in terms of access to land rights. It is therefore against this background that this section will attempt to answer two questions: Is the operation of customary law an adequate explanation of why women have been denied access to land? Have gendered power relations in the village denied women access to land? As Agarwal (cited by Izumi, 1999, p.

10) argued, it is not only state policies, market forces, and traditional social structures which affects women's access and rights to land but also "the power relations which exist in different institutions-- national and local state structures, the market, the community or village, and the family and household."

Revisiting Debates about Customary law

A number of studies have documented the ways in which women are conferred inadequate property rights through customary tenure systems in southern Africa (Mvududu, 1999; Ncube, 1998). In order to appreciate the argument fully it is imperative to give a rendition of the legal position of women in Zimbabwe. Zimbabwean women occupy different statuses; they experience a wide range of resource and opportunity access problems. The rural-urban divide brings with it different classes of women, the most prevalent being the urban-working class women and the rural peasant women. Although this is a simplistic categorisation, it nevertheless serves the purpose of this study in terms of understanding the legal circumstances of women.

The legal and cultural apparatus of indirect rule and settler colonialism in Zimbabwe made an African woman a perpetual minor, dependent on a male relative or spouse for her legal status (Nkiwane, 2000). However, some post-independence legislative laws passed were intended to rectify this gender discrimination. The Government passed the Legal Age of Majority Act of 1982, which gave women of all races full contractual rights by the age of 18. The Act was intended partially to acknowledge women's role in the liberation struggle and as a way to prove Zanu PF's socialist ideology. The Customary Law and Primary Courts Act of 1990 allowed primary courts to take over decisions that were previously determined by chiefs and others under customary or traditional law. The Matrimonial Causes Act of 1985 granted women rights to part of the marital property, despite bridewealth payments, in the event of a divorce (Mvududu, 1999; Nkiwane, 2000). Despite these legislative changes to improve the

status of women, women still face obstacles in their bid to access the previously male-controlled resources. This ineffectiveness of the law in practice has been attributed mainly to the dual nature of the Zimbabwean legal system.

Legal pluralism

The Zimbabwean legal system is characterised by legal pluralism, thus, “it involves the recognition that not only is state law derived from multiple sources but also there are important sources, outside state law, which generate and enforce norms which often work in contradiction to state law” (Ncube, 1998, p.156). State law co-exists with the customary law of the indigenous people of Zimbabwe. This legal pluralism results in legal conflicts that work to the disadvantage of women.

Section 23 of the Constitution of Zimbabwe provides protection from discrimination based on race, tribe, place of origin, political opinions, colour or creed, and recently sex (Nkiwane, 2000); Constitutional Amendment Number 14 of December 1996 outlawed discrimination on the basis of sex (Mvududu, 1999). Although Section 23 prohibits discrimination it recognises exceptions to this general principle in issues relating to, among other things, adoption, marriage, divorce, burial, devolution of property on death or other matters relating to personal law, and the application of African customary law. It is clear that customary rules relating to land allocation fall outside the ambit of Section 23.

Magaya Case

Customary law places limitations on women who want to own property, largely due to the male ownership of property under the official customary law (Mvududu, 1999). The Magaya case is a fine example. In 1999 the Supreme Court ruled that a daughter who had been left property, including a house, by her father did not have inheritance rights over her half-brother because she was female (Jacobs, 2000; Osirim, 2001). The court argued that under

Zimbabwean customary law, which has coexisted with civil law since the colonial period, women are juveniles, and only men can inherit from a father (Mvududu, 1999). The Legal Age of Majority Act of 1982 was deemed inapplicable to customary law.

Customary law and land access

Some argue that customary law is a colonial construct, rather than a reflection of the dynamics of Zimbabwean culture. Exploring the colonial invention of tradition in Africa, Ranger (1983, p. 250) concludes that “the most far-reaching invention of traditions in colonial Africa took place when the Europeans believed themselves to be respecting age-old African customs. What were called customary law, customary land-rights, customary political structure and so on, were in fact all invented by colonial codification.” Schmidt (1990, p. 648) has argued that “the reconstitution of the African ‘customary law’ by the colonial state, in collaboration with African chiefs, headmen, and other senior men, provided fertile terrain for contests between African women and men, as well as between men of different generations.” This arrangement allowed African men to assert their authority over women and continue to maintain control over their children and marital assets.

The ‘invention of tradition’ scholars made a useful contribution by alerting us to the role of human agency and contestations of interest in the creation of traditions. However, as Spear (2003, p. 3) argues “the ‘invention of tradition’ has often overstated colonial power and ability to manipulate African institutions to establish hegemony.” Thus, the argument is premised on an implicit superiority of ‘inventors of tradition’ and the inferiority of indigenous people.

It is necessary to make a distinction between the court’s version of customary law and the reality of customary practice as it exists on the ground. In certain instances ‘customary law’ norms are inventions made up in the context of colonial legal systems, which can be contrasted to lived customs within the Zimbabwean society that have not been identified as

forms of customary law (Ncube, 1998). The more flexible, interactive practices of customary law in daily life (living law) vary with the official customary law (Parpart, 2000). Bigge & von Briesen (2000, p. 301) assessed that “the official customary law consists of rigid rules, embedded in judicial decisions and statutes, which have lost the characteristics of dynamism and adaptability which distinguish African custom.” I argue that in the case of invented ‘customary law’, those with knowledge of and control over the rules and the power to manipulate them were set to benefit from the system. As Kesby (1999) has argued most of what is written about customary law is from a male perspective and this is unlikely to work to the advantage of women.

I have argued that while in pre-colonial society women owned land and cattle in their own right and owned exclusively the produce from that land, changes in social structure brought about by colonialism eroded women’s rights to land along with the erosion of women’s status in general. Hence, present norms and customs are often very different from those recognized by the state courts as authentic customary practices. The constructed customary law affords women very few positive rights, if any.

Customary law has been used to refer both to the constructed version of African practices codified in statute books and to customary practices in daily lives. Scholarly literature on customary law vis-à-vis women’s access to land has failed to make this vital distinction and they have predicated their argument on the ‘official’ version of customary law, which is often contrary to the customary practices of daily life. Hence, scholars on customary law have often committed the ‘fallacy of ambiguity’ by making an illicit jump from one meaning to the other in the same context. The fallacy of ambiguity is a philosophical concept, which means shifting between two legitimate definitions of a term within the same argument. Gray & Kevane (1999) note this distinction as they argue that customary practice may enjoin a husband to provide his wife with land, a requirement absent from most statutes. Further,

recent research has discovered that Ndebele widows traditionally remain in the family home with the youngest son contrary to official “customary law” (Parpart, 2000). In most instances the confusion and uncertainty surrounding the exact nature and content of customary law results in multiple interpretations, which invariably work to the disadvantage of women.

The interaction between legislated norms and other normative structures needs to be understood and analysed if we are to understand why women lack access to land. It is for this reason that I seek to depart from the scholarship that attributes the existence of customary law in statute books as the cause of women’s poor access to land. As the Magaya case has shown, customary law has been used covertly to deny women access to resources such as houses and other forms of property. Do the same power dynamics operate in rural areas? I will argue that rural areas offer a different spatial context in terms of women’s access to resources such as land. It would be an incomplete picture to claim that rural women were excluded from the recent land reform because of the existence of customary law as contained in the statute books. Rural areas operate according to a different discourse where communal rights and obligations take precedence over individual rights. It is a discourse that reveals the limitation of the women-centred approach dominant in western research. Just as formal and legal rights to land do not necessarily provide women secure rights in reality, if such rights are not made socially legitimate and enforceable (Izumi, 1999), the existence of customary law in statute books does not necessarily deny women’s rights to access land when the existence of that law has no social legitimacy. The state as the guardian of official customary law has no legitimacy in rural areas because customary practices on the ground ultimately determine which persons, classes, gender and generations will inherit resources in the society. The next section provides an overview of the power struggles between the state and traditional authorities with the aim of establishing who ultimately controls access to land.

Power Struggles between the State and Traditional Leaders: An Overview

Colonial and postcolonial history vividly demonstrates a persistent power struggle between the state and traditional leaders regarding control over land (Andersson, 1999; Nyambara, 2001). Traditional leaders have struggled to retain control over the lands within their communities and prevent them being turned into private property. Nyambara (2001) has traced the process whereby the colonial authority institutionalised chiefs with the authority of allocating land for the purpose of bolstering the powers of chiefs as part of a system of indirect rule. Although the minority Rhodesian government did not always win the struggle for chiefs' allegiance, chiefs subsequently gained a bad reputation among the freedom fighters for ostensibly colluding with the white government (Nyambara, 2001).

The post-colonial government passed the Communal Land Act of 1982 and according to this law access to and use of communal land is in accordance with customary law. The responsibilities of allocating land rested with government institutions such as the Rural District Councils and elected Ward Development Committees (WADCOS) and at village level the Village Development Committees (VIDCOS) (Andersson, 1999). Contrary, Kesby (1999) wants us to believe that the establishment of democratically elected courts and councils gave women greater influence in their local communities. As I will argue, the elected development committees had no influence and legitimacy among the rural population over issues relating to land.

After recognizing the power struggles between local state institutions and traditional authority, the Land Tenure Commission of 1994 recommended a boundary reorganisation and devolution of power which would make 'traditional villages' the primary scale of rural administration (Kesby, 1999). In the run-up to the 2000 parliamentary elections the government passed the Traditional Leaders Act of 2000, which provided for the appointment of traditional leadership, that is, chiefs, headmen, village heads, and other subsidiary

functionaries such as the village assembly, and spelled out their duties, functions and powers). The Act gave chiefs and local authorities greater powers in land allocation, tax collection and leadership of new local assemblies at village level (McGregor, 2002). However, the passing of the Traditional Leaders Act (including a reward system) in land administration was generally seen by ordinary Zimbabweans as part of the state's intention to retain control of the rural population and not democratize rural governance.

The dissolution of WADCOS and VIDCOS and the upgrading of headmen and chiefs under recent legislation have been interpreted as retrogressive to women's chances of owning land in rural areas. Women's groups have expressed the fear that privileging of traditional authorities is bound to give a male bias to the new structure. However, even when WADCOS and VIDCOS had the legal mandate to allocate land, women lacked access to land.

Berry cited by Nyambara (2001) has noted that neither colonial nor post-colonial governments have been able to control the conditions under which farmers gained access to land or the ways in which they used it. Andersson (1999) correctly observed that although the 1982 Communal Land Act transferred all land-allocating powers to the Rural District Councils, land cases did not by-pass the headman's *dare* (court) or that of the chief. The development committees, that is, WADCOS and VIDCOS, only played a secondary role in land disputes or they were simply ignored, as they hardly seemed to function. Although land allocation was nominally in the hands of VIDCOs, in practice allocation continued to be made to (normally male) family heads by the headmen (Worby, 2001).

In an example cited by Andersson (1999), headman Murambinda ordered the councillor of the area to his *dare* and reprimanded him for trying to settle a land dispute. "It was made clear to the councillor that land issues were the traditional leaders' concern, not his" (Andersson, 1999, p. 556). One can view this as the manifestation of power struggles between 'traditional' leaders and state institutions contesting for political and jurisdictional

legitimacy. The legally constituted state institutions have neither the legitimacy of customary social structures nor the resources to make them effective. As this example shows, villageheads, headmen and chiefs continue to dominate land issues. Post independence institutional structures imposed on the rural people had little impact on their daily lives as they still followed their traditional pattern of life in land allocation. Hence, throughout the 1980s hitherto chiefs reasserted themselves as the legitimate representatives of rural people and grew to embody the desire to maintain 'communal' tenure, and to resist the imposition first of socialist agriculture and then of privatisation (Kesby, 1999). Land allocation is *de jure* in the hands of the government but *de facto* it is in the hands of traditional leaders (Andersson, 1999). Having established that traditional leaders allocate and resolve land disputes I now want to locate the position of women in the village in terms of accessing land and other resources.

Women in the Village: Gendered Identity and Access to Resources

As a symbol of wealth and power, access to land is often contested. Scholars have explored aggregate inequalities in access to resources by men and women in rural communities (Adams, 1991; Goebel, 1998; Kesby, 1999). Goebel's (1998, p. 289) research findings established that a village is "a site where a strictly gendered division of labour, gendered expenditure responsibilities, gendered income possibilities, gendered mobility patterns, and elements of marital tension and mistrust, are well-entrenched." In the village women do domestic duties of cooking and childcare. However, their dominant role is in the fields where women do most of the weeding and harvesting, and even some of the ploughing, and their responsibility for market gardens precludes women from wandering farther afield. Women's close relationship to the homestead contrasts sharply with the involvement of men and boys with cattle herding and hunting, taking them into the 'bush' areas (Goebel, 1998)

One can sift the contradictory and contesting power relations between different actors and social groups in a village politics around access to land. Adams' (1991) research on rural women in Masvingo Province discovered that access to productive resources, including land, education, and higher-paid employment, is controlled largely by men. Adams' (1991, p. 167) study noted a striking lack of access by female-headed households to the means of production: "Only one of the 10 households owned any cattle. None of the households had over 2,5 hectares of arable land and three households had only 0,5 hectares or less. Six of the 10 did not own a plough. Six of the 10 did not sell any crops in the year preceding the interview." Traditional customs provide that men control land access and dictate the procedures according to which women acquire land. A married woman receives land from her husband, an unmarried woman (single or divorced) receives land from her father or brothers in her birth village, and a widow stays at her former husband's area and continues to use his land if she is on good terms with his relatives and they agree to her continued presence. To a certain extent, traditional customs empower women, albeit only in ways permitted by tradition, ways that endorse traditional premises.

Goebel (1998) established that the dominant trend has been that widows do maintain occupancy of the land; a widow's right to the homestead, fields and gardens is also extended to any trees planted in the homestead. However, it has to be pointed out that the right of a widow to remain on a piece of land is not a prime responsibility of traditional leaders like the village head, headman and the chief. It is a decision reached by elders of the widow's extended family and she has no voice in the proceedings and outcome of the decision. The family council assigns an heir and distributes the property during the *kurova guva/umbuyiso*¹ ceremony, which is performed a year or more after the death of the widow's husband. As Parpart (2000) has argued, the struggles of Zimbabwean widows to redefine and negotiate inheritance practices is a site where private moments of grief intersect with laws, customs and

discourses and practices about control of property. These laws and customs are embodied and engendered as they define roles for men and women.

Are women able to exercise agency within the local embedded social and traditional contexts? Analysing the notions of resistance and power, Foucault (1980 cited by McNay, 1993, p. 39) argued that “there are no relations of power without resistances; the latter are more real and effective because they are formed right at the point where power relations are exercised.” Hence, social and power relations both constrain and enable, leading people to both endorse and subvert the world in which they live. In this regard, Kesby (1999) observed that some widows and divorcees have gained access to land via generous brothers, relatives or by illegal purchase from headmen. In my early life experience in the village, I witnessed that women possessed by the spirits of founding ancestors (*mhondoro*) or alien rain spirits not only have greater access to resources such as land, but also occupy an influential position equal to that of the chief.

What can be concluded from these findings is that married women are relatively better off in terms of access to resources than single, divorced and widowed women but they have limited autonomy in terms of independent decision making. On the one hand, single, divorced and widowed women have greater autonomy in their life styles but have limited access to or ownership of land and other productive resources. On the other hand, conditions of marriage shape control over household resources, even after the husband’s death (Parpart, 2000). As Goebel (1998) observed, men and women live in somewhat different “resource worlds”. I will now explore the constraints and limitations of rural women in accessing land in the LRRP II.

LRRP II: The Intersection of Gender and Political Affiliation

The Land Reform and Resettlement Program II has been highly controversial in terms of both substantive and procedural issues. In the face of a strong political challenge from the leader of the urban-based Movement for Democratic Change (MDC) Morgan Tsvangirai, President

Mugabe in 2000 encouraged land occupations of commercial farms by war veterans and other land hungry Zimbabweans. The process was characterised by violence against farm owners, commercial farm workers and supporters of the opposition MDC. It is in this context of high political tension that the LRRP II needs to be understood and analysed. According to the government, land redistribution has been completed and yet most women failed to get access to land. One wonders what explanations can be given to account for their absence as beneficiaries of the recent land reform.

Occupations of Commercial Farmland: The actors

War veterans, squatters, ruling party militants and state officials have carried out the farm occupations. According to a newspaper report, ruling party militants have illegally occupied land on more than 1,700 white-owned farms since February 2000.² The same report described how the High Court had ordered Police Commissioner Augustine Chihuri to deploy police and evict squatters who had occupied farms in the Hwedza corn and tobacco-growing district, 120 kilometres south-east of Harare, for nearly a year. A Daily News (2001) report notes that scores of war veterans and Zanu PF supporters allocated themselves land on the Charleswood Estate, which is owned by the MDC MP for Chimanimani, Roy Bennet.³ Amnesty International (2001) reported that these groups acted with impunity and with the acquiescence of the authorities.⁴ The situation was worsened by the fact that the police had expressed an unwillingness to intervene in the issue because, they argued, the invasions were a political matter.

The terms used to describe the actors involved in the land occupation might seem non-specific in terms of gender at first glance, allowing for both men and women's involvement. However, a closer look shows that we have to assume that if women are involved in land occupations, then it is stated explicitly, if not, then we have to assume the occupiers are men. As a ZINISA (2001) report reveals, "Where the occupied farm adjoined a communal area, it

was often the communal farmers, women and children, who came to squat on the farm, pegging plots of land as directed to do so by the occupiers.”⁵ While this report points out that women also participated in land occupations, the distinction made between “communal farmers and women” implies that women are not communal farmers, only men. This contradicts known evidence which places women as the backbone of communal farming (Jacobs, 1990). The Daily Telegraph (2001) report portrays men as actors in the land occupations and women as victims.

Mobs loyal to President Robert Mugabe looted 10 more properties yesterday as the onslaught against Zimbabwe’s white farmers spread to a new area. The Makonde area was targeted for a looting spree that brought the number of farms ransacked to 50. More than 300 women and children have now been evacuated from about 100 properties.⁶

In this report, women and children are only mentioned as victims of land invasions by the ‘mob.’ Generally, these varied reports seem to suggest that men were the dominant actors in the land invasions and scarcely mention women. In addition, in the few instances that women are mentioned they are either victims of the land reform or occupying commercial farms adjacent to communal areas.

A distinction is made between ‘war veterans,’ ‘land invaders’ and ‘ruling party militants’, where only one group has the label of invaders. I would suggest that these ‘land invaders’ are imagined as ordinary peasants. They are commonly distinguished from war veterans, as the Zimbabwe Independent report shows: “the war veterans and invaders raided at least 26 farms in the Chinhoyi and Mhangura area and took millions of dollars worth of property.”⁷ The same report also associate them with theft: “invaders broke into the farm

butchery on Dichwe Farm and stole all the meat. The farm stores on Caranfel and Richmond were broken into and all store items looted.” According to the New York Times (2001), widespread reports of clashes between white farmers and poor blacks that had occupied farms touched off the surge in tensions and landed 22 white commercial farmers in jail, charged with causing public violence.⁸ The land occupiers are here referred to as ‘poor blacks,’ suggesting that they may be peasant people from communal areas

A local independent daily newspaper reported that thousands of restless peasants, government officials and war veterans descended on commercial farms in a wild scramble for land after the rains. Ignatius Chombo, then Minister of Local Government, Public Works and National Housing, who was also chairman of the resettlement committee, told peasants in the Darwendale and Trelawney area that they should occupy commercial farm land even if the government technicians had not demarcated the plots. “Go ahead and resettle yourselves in time for the rains. We will have to attend to that later.”⁹

The Role of Women and Land Lobby Group

Women’s exclusion from Phase II land reform has not been for want of making their voices heard. When Glenn Kauth (2002) interviewed the Director of Women and Land Lobby Group (WLLG), Abby Mgugu, on the organisation’s mandate Mgugu explained, “Basically, what we do is lobbying and advocacy for women’s lands rights. We lobby for policy changes as well as implementation of those changes. We also do a lot of monitoring of the impact of government land policies on gender equality” (Kauth, 2002, p. 1). Through a series of workshops and consultative meetings prior to the International Donor’s Conference on Land, WLLG lobbied the government for serious engendering of the land reform process (Gumbonzvanda, 1999). WLLG spelt out clearly what women wanted:

to be treated with dignity as full nationals; women's rights to land to be protected through legislation; non-discrimination on the basis of marital status and their rights in marriage to be protected, for example, through joint title; acknowledgement of women's disadvantaged position/weak negotiation base and for special mechanism to be instituted e.g. quota, special fund, training, monitoring; removal of discriminatory qualifications, for example, academic qualifications; standardised procedures for accessing land;...participation in decision making structures (task forces, committees); Allocation of whole farms to women; sensitisation of men (Gumbonzvanda, 1999, p. 9).

The vision, mission, goals, and objectives of WLLG, emboldened by the international discourse on women's rights and gender equity are premised on a liberal discourse that seeks to change the law in order to achieve equality.

Based on WLLG's lobbying, the government's policy document on land stated beneficiaries of the resettlement programme to be:

communal families selected from overpopulated villages, including ex-farm workers and ex-mine workers. People with training or certificates in agriculture or a demonstrated capacity in farming such as Master Farmers and graduates from agricultural colleges. Special groups such as women who constitute 51 percent of the population. Indigenous people intent on making a break-through in commercial agriculture.¹⁰

Although women feature in this list of proposed beneficiaries, they do so in problematic terms. They are constructed as special group, by implication not villagers, ex-farm workers,

or Master farmers, while paradoxically, it also admitted that they are in the majority vis-à-vis men.

WLLG's engagement in land policy debates also resulted in the President declaring in October 2000 that female-headed households would receive 20 percent of redistributed land. No such commitment regarding married women was given. Indeed the Vice-President, Joseph Msika, in response to a question about why women did not have land rights, said at a press conference: "Because I would have my head cut off by men if I gave women land...men would turn against the government" (cited by Jacobs, 2000, p. 13). Msika added that giving wives land, or even granting joint titles, would 'destroy the family.' Such reactions are indicative of the intertwining questions of land, family, gender, power and patriarchy. The proposal to allocate a 20 percent quota of land to women in female-headed households leaves out married women, who supposedly have to get land through their husbands. This is an explicit admission by the government that if there is a man and a woman; a man is entitled to land. Women can only get land in their own right in a world devoid of men.

In a Parliamentary workshop organised by WLLG to review the land reform programme and its impact on women, the Minister of State for the Land Reform Programme, who is also the Gokwe East MP, Cde Flora Buka, said that the chances for women to get land were now slim even if they held workshops demanding to be allocated. "I have been carrying audits¹¹ to verify if women got land and I have realised they are not getting land."¹² Although the policy documents relating to the LRRP Phase II ostensibly include women as deserving recipients of land, in practice they have largely been excluded from the process. In fact an implicit binary opposition between women and men can be discerned in the official policy, making women a special group, and practices of land reform have certainly not been to their benefit. Even though women's groups lobbied the government for women's inclusion in the land reform process, their approach was largely legalistic, thus, limited in its capacity to deal

with issues that concern rural peasant women. So what are women's experiences of the land reform process Phase II?

Women's Experiences of Fast Track

Marongwe conducted his fieldwork undercover provides us with a brief commentary of the involvement of rural women in the land reform resettlement programme:

The gender balance at the occupied farms seemed to vary from place to place. Some farms, particularly those close to communal and resettlement areas, showed balanced numbers of male and female occupiers. In other cases, occupiers were young couples where both the wife and husband participated in the farm occupations. There were very few cases in the study area where there were no women occupiers at all (cited by Goebel, 2005, p. 157).

A weekly independent newspaper, the Financial Gazette, tells the story of Sheilla Makumbo, a former soldier popularly known as 'Yondo Sister', who counted herself among the lucky few women who have benefited from Zimbabwe's land reform programme. However, Makumbo is reported to be frustrated that more women have not been given the opportunity to apply for land or if they did, that they were not selected.¹³ It is not through women's lack of interest: the South African Broadcasting Corporation (SABC) News has described how a Zimbabwe government official in Chinhoyi jumped out of a third floor window to escape a beating by angry women war veterans demanding ownership papers for land they seized from white farmers."¹⁴

The resettlement of beneficiaries at Wakefield Farm in Makoni rural district under AI model, that is, the villagised resettlement model, clearly shows how the government neglected

women in the land redistribution exercise. This is part of President Mugabe's address at Wakefield Farm:

On this property, the following categories of people are being catered for: 50 percent of the people are former Osborne Dam catchment dwellers; 20 percent was allocated to war veterans in terms of Government policy; and 30 percent of the people are from nearby congested lands as determined by the Scan plans produced by the Agritex Department, which is consistent with the communal lands decongestion thrust of the second phase of the land reform programme.¹⁵

There is no explicit mention of women being part beneficiaries on this farm; but of course, they may be included in the categories of war veterans, catchment dwellers and those from congested communal areas. However, since land was allocated to household heads, presumably constructed as male, women were unlikely to have benefited in their own right. Thus, despite the government's undertaking to allocate 20 percent of the land to women in female-headed households, Mugabe's list of statistics from Wakefield farm makes no mention of such women as beneficiaries.

Sachikonye (2003) sampled 160 farms and discovered that 75 had been turned over to resettlement under the A1 model while 85 were subdivided into farms under the A2 model. The sample results showed that men owned seventy A1 farms while women owned only five farms. Statistically, 93 per cent of the A1 model beneficiaries in the sample were male, and 6 per cent were female. Similarly, Utete's Report, compiled by the Presidential Land Review Committee, "suggest that the number of women allocated land under fast track was very low country wide. Women-headed households who benefited under Model A constituted approximately only 18% while women beneficiaries under Model A2 constituted only 12%"

(cited by Hellum, 2004, p. 1796). It looks as though the new land ownership pattern under the A1 model have reproduced the gender distribution of ownership in the existing communal areas, reflecting a strong patriarchal domination in land ownership.

However, as the Land Audit (2003) report shows, some high ranking women have benefited from Fast Track land reform and these include Hon. Minister for Small and Medium Enterprises Development Cde S. Nyoni MP, who was allocated Fountain Farm which has a highly developed infrastructure and produced poultry, citrus and livestock. Olivia Muchena, one of the few women in the cabinet also benefited.¹⁶ As to who then got the land? One can safely conclude that women from the ruling elite and some women war veterans got land but that women in female-headed households did not in the main, and married women outside the elite certainly did not.

Competing Explanations: In search of a theory

What explanations can be given to account for this form of indirect discrimination against women? It can be theorised in a number of ways. A UNDP (2002) report explains that the reason why the modest commitment to (some) women was never implemented is that there was no legal or administrative framework in place to ensure gender equality in the distribution of resettlement land.¹⁷ Women's absence from the LRRP II can also be explained by the nature of the committees appointed to carry out beneficiary selection. When the vice President, Joseph Msika, launched Zimbabwe's Fast Track approach he stated that "beneficiary selection will be carried out by local committees made up of traditional leaders, Councillors, District Administrators, Provincial Administrators, Governors representatives of war veterans and other specially appointed individuals."¹⁸ Women were not part of this hierarchical selection committee as it is rare for them to occupy these influential positions. These are patriarchal institutions conspicuous for their dominance by men. As Goebel (2005, p. 145) argues, "the current 'fast track' practices continue to privilege men as primary

recipients of resettlement land, and the emerging role of traditional authorities in the land reform process marginalizes women.” Similarly, Oppah Muchinguri, the Manicaland

Governor, acknowledged that “all the structures in the land reform programme were headed by men who were favouring other men while depriving women who work very hard in the fields.”¹⁹ This argument is predicated on an assumption that involving women in the decision-making structures would effectively remove gender discrimination. This may not necessarily be transformative in that subordinated women and women close to the ruling elite may be co-opted, so that the structure appears gender sensitive when in reality it is not.

Although women are the majority in terms of the Zimbabwean population, the government’s policy document on land considers them as a special group. This shows that the government is deeply entrenched in patriarchal ideology that treats women as an inferior group of people. If we were to apply the utilitarian principle, whose essence is premised on the need to achieve the greatest happiness for the greatest number, then Zimbabwean women would need to benefit from the land reform. Yet appealing to female difference or otherness continues to be used to justify inequality of the sexes.

The Zimbabwean government’s land policy is premised on treating women as essentially different from ‘normal’ citizens, black men. As Grosz (1994) has argued, difference has often been understood in terms of distinction and opposition, a sexual difference modelled on negative, binary, or oppositional structures within which only one of the two terms, male, has autonomy. Hence, women’s absence from LRRP II can alternatively be explained by the debate on difference. This is an example of how insisting on gender difference may be manipulated and exploited. The ideal of difference plays into the hands of patriarchal tradition that has used the notion of female difference to justify inequality and aspire to a goal that is not desirable, in this case, denying women equal access to land. Grosz (1994, p. 87) has demonstrated that women in patriarchal societies have been regarded as

“socially, intellectually, and physically inferior to men, a consequent of various discriminatory, sexist practices, practices that illegitimately presumed women were unsuited for or incapable of assuming certain positions.” To make significant progress requires an alternative conceptual framework, one less fixated on difference but more attentive to the disadvantages that it has entailed. The discourse of difference must be incorporated; however, it must begin an analysis, not end it.

Women’s lack of access to land in the LRRP II can be understood within the broader context of Mugabe’s political expedience as he sought to cling on to power. The land issue, his defining premise, was constructed solely as an issue between blacks and whites. Bringing in the gender component was only done to reinforce his waning political base and without any political commitment to it. This is demonstrated in a government policy document which states that “during the inception phase, the Government will continue consultations on the land reform programme with the key stakeholders (including women) and its development partners.”²⁰ It is hard to dismiss the suggestion that the phrase “including women” may have been a later addition by the government. I agree with Eade (1999, p. 289) who in a different context termed this ‘genderisation,’ that is, “tinkering in the margins of a text (or institution) that remains otherwise intact.” Eade (1999) argued against “tagging ‘and women’ to the end of every paragraph in order to ‘genderise’ the preceding content.” By this she meant the adding on or bringing in of a gender component in an organisation that is otherwise patriarchal, perhaps for the purpose of securing donations, and in this instance to woo rural voters for impending parliamentary and presidential elections.

Conclusion

I have argued that the scholarship which explains women’s lack of access and control of land in Zimbabwe as the outcome only of customary law is inadequate. As the article has shown, it is the power and gender relations in institutions such as the village that are instrumental in

denying women's access to land. Thus, a key factor for women to access land is not through abolishing customary law but reconciling traditional institutions, which control access to land in rural areas and gender equality. Hence, approaches should attempt to manipulate traditions that are favourable to women rather than being anti-tradition.

Granting land rights for women on the same basis as for men (and this could be either communal or individual) would not create gender equity overnight, given the complex nature of gender and power relations that operate in the village. As Izumi (1999, p. 16) has argued, "institutions that govern women's relationship with land cannot be seen simply as a set of rules, norms, policies, and laws: it is the social legitimacy of these which constitutes an institution. Because of this, women's access and rights to land is indeed a question of social change." Thus, the emancipation of women in rural areas cannot be achieved through superficial legal changes, but through the manipulation of traditional customs that give women a voice.

While some progress was made in acknowledging the need for equitable gender-based land redistribution, the implementation of the LRRP II excluded women. In the political struggles to entrench gender equality in the land policy document WLLG's lobbying resulted in the government acceding to allocate women in female-headed households 20 percent of the total land allocated. To a greater extent, this shows the patriarchal attitudes of much of the predominantly male political leadership in that married women were never a government target. While a small number of women gained access to land, land reform did not benefit the great majority of poor, rural women. This article has posed a number of competing explanations as to why women failed to gain access to land, viz. the absence of women in the institutional structures of the land reform program, the government's fixation on female difference, the overriding concern of Zanu PF to cling on to power. Consequently, the land question in Zimbabwe remains, even after the LRRP II, a structural source of conflict.

Endnotes

¹ *Kurova guva/Umbyiso* is an important cultural practice for both the Shona and Ndebele of bringing back the soul of the dead.

² The Star (2001). Zimbabwe State vows to disobey new court order. *The Star*, 9 February, Johannesburg.

³ Daily News (2001). MP Bennet refuses to budge as invaders descend on farm. *Daily News* August 7, Harare.

⁴ Amnesty International (2001). Zimbabwe: Appeal to the European Union and the Commonwealth. *Amnesty International*, Retrieved 12 November 2002, <http://www.amnesty.org/en/library/asset/AFR46/010/2001/en/dom-AFR460102001en.pdf>

⁵ ZINISA (2001). The Situation of Children on Commercial Farms in Mashonaland Central. *Zimbabwe Network for Informal Settlement Action*, Report 12, Harare. p.7.

⁶ Daily Telegraph (2001). Zimbabwe mobs widen attacks on white farmers. *Daily Telegraph*, 10 August, London.

⁷ Zimbabwe Independent (2001). Chombo, Zanu PF MPs incite anarchy on farms. *Zimbabwe Independent*, August 17, Harare.

⁸ New York Times (2001). Unrest intensifies in struggle to control Zimbabwe farms. *New York Times*, August 10, New York.

⁹ Daily News (2000). Chaos hits land occupations. *Daily News*, November 2, Harare.

¹⁰ Government of Zimbabwe, 1998. Zimbabwe Land Reform and Resettlement Programme: Draft for Discussion. *Government of Zimbabwe*, Retrieved on 10 February 2003, <http://www.gta.gov.zw/Land%20Issues/LAND.htm>

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- ¹¹ The Land audits were carried out to identify anomalies and policy violations in the implementation of the Land Reform and Resettlement Programme.
- ¹² Herald (2002). Parliamentarians Criticise Group's Move. *Herald*, November 7, Harare.
- ¹³ Financial Gazette (2002). Zimbabwean women left behind in land allocation. *Financial Gazette*, 12 December, Harare.
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http://www.sabcnews.com/africa/southern_africa/0,1009,56730,00.html
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